

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Application No. 78/030,875
Published in the Official Gazette of December 10, 2002

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:
HMR Acquisition Company, Inc.
d/b/a Hacienda Mexican Restaurants,
:

Opposer
:

v.
:

Casual Dining, Inc.,
:

Applicant
:
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06-30-2003

U.S. Patent & TMO/TM Mail Rcpt Dt. #22

Opposition No. 91155801

APPLICANT, CASUAL DINING, INC.'S
FIRST SET OF REQUESTS FOR ADMISSIONS (Nos. 1-17)
TO OPPOSER, HMR ACQUISITION COMPANY, INC.

TO: HMR ACQUISITION COMPANY, INC.
% Alexander D. Foreman, Esq.
ICE MILLER
One American Square, Box 82001
Indianapolis, IN 46282-0002

Pursuant to Fed. R. Civ. P. 36, Casual Dining, Inc. (hereinafter "Casual" or "Applicant") hereby propounds the following Requests For Admissions (Nos. 1-17) to HMR Acquisitions Company, Inc. d/b/a Hacienda Mexican Restaurants (hereinafter "HMR" or "Opposer"). It is requested that Opposer answer, within thirty (30) days from service, either admitting or denying the truth of each of the following statements separately and fully in writing, and if the truth of any statement is denied, to specify those portions of the statement which are true and, as to each subparagraph of the statement which cannot be admitted, to state the reasons why it cannot be admitted or the manner in which the subparagraph must be qualified in order for the statement to

be true.

DEFINITIONS AND INSTRUCTIONS

1. "You", "your" and "Opposer" mean HMR Acquisition Company, Inc.
2. "Applicant's mark" means "GUADALAJARA HACIENDA".

Respectfully submitted,



N. Elton Dry
Attorney for Casual Dining, Inc.
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CERTIFICATE OF SERVICE

The undersigned, attorney of record for Casual Dining, Inc., the Applicant herein, certifies that the foregoing Requests For Admissions (Nos. 1-17) to Opposer was placed in the United States Mail, first class postage pre-paid, addressed to the following, attorney of record for HMR Acquisition Company, Inc., the Opposer herein, on the 25th day of June, 2003:

Alexander D. Foreman, Esq.
ICE MILLER
One American Square, BOX 82001
Indianapolis, IN 46282-0002



N. Elton Dry

APPLICANT'S REQUESTS FOR ADMISSIONS TO OPPOSER

1. Admit or deny that "HACIENDA" is a commonly used name in the United States for Mexican-style restaurants.

Answer:

2. Admit or deny that "HACIENDA" is a generic name for Mexican-style restaurants within the United States.

Answer:

3. Admit or deny that "HACIENDA" is not fanciful, for Mexican-style restaurants within the United States.

Answer:

4. Admit or deny that others, not owned or controlled by Opposer, have used in the past, and are continuing to use today, within the United States, the name "La Hacienda", for Mexican-style restaurants.

Answer:

5. Admit or deny that others, not owned, controlled, or licensed by Opposer, have used in the past, and are using today, within the United States, within their name the word "Hacienda", for Mexican-style restaurants.

Answer:

6. Admit or deny that Opposer, HMR Acquisition Company, Inc., did not exist as a legal entity prior to 1995, the date of its incorporation in Indiana.

Answer:

7. Admit or deny that Opposer, HMR Acquisition Company, Inc., did not itself, or for itself or others, use the mark "HACIENDA" prior to 1995, the year Opposer became a corporation under Indiana law.

Answer:

8. Admit or deny that Opposer, HMR Acquisition Company, Inc., acquired its rights to use the mark "HACIENDA", if at all, by assignment from another person or entity.

Answer:

9. Admit or deny that Opposer did not acquire the goodwill associated with the mark "HACIENDA", when Opposer was assigned rights to the mark.

Answer:

10. Admit or deny that Opposer, HMR Acquisition Company, Inc., acquired multiple restaurants in Indiana, whose names were "Hacienda" or contained the name "Hacienda", from more than a single person or entity.

Answer:

11. There exists within Opposers trade area other restaurants having the name, or whose name contains the word: "Hacienda", which Opposer does not own or control.

Answer:

12. Opposer has not objected to the existence, within its trade area, of other restaurants, not owned or controlled or licensed by Opposer, having the word "Hacienda" in their name.

Answer:

13. Admit or deny that there is virtually no possibility that consumers would likely be confused by the mere registration, by the U. S. Patent and Trademark Office, of Applicant's mark: "GUADALAJARA HACIENDA".

Answer:

14. Admit or deny that Opposer knows of no actual confusion, by any consumer, between Opposer's "HACIENDA" registration and Applicant's application to register the mark "GUADALAJARA HACIENDA".

Answer:

15. Admit or deny that Opposer knows of no actual confusion, by any consumer, between Opposer's "HACIENDA" restaurants, located in Indiana, and Applicant's "GUADALAJARA HACIENDA" restaurant, located in Houston, Texas.

Answer:

16. Admit or deny that "Hacienda" is not the principal feature of Applicant's mark, "GUADALAJARA HACIENDA".

Answer:

17. Admit or deny that Opposer would voluntarily dismiss, and withdraw, its opposition to the registration of "GUADALAJARA HACIENDA", if Applicant would disclaim the word "HACIENDA", except as used in connection with the entire mark "GUADALAJARA HACIENDA".

Response:

06-30-2003

U.S. Patent & TMOfo/TM Mail Rcpt Dt. #22

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, Virginia 22202-3513
BOX TTAB NO FEE

on June 25, 2003

Date

Christine M. Mamerow

Signature

Christine M. Mamerow

Typed or printed name of person
signing certificate